

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE DIVISION

STEVEN HORN, individually and on behalf  
of all others similarly situated,

*Plaintiff,*

v.

AMAZON.COM, INC.,

*Defendant.*

CASE NO. 2:23-cv-01727-RSL

**PROTECTIVE ORDER**

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. This Protective Order is consistent with LCR 26(c) and does not confer blanket protection on all disclosures or responses to discovery. The protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

2. DEFINITIONS

2.1 Challenging Party: a Party or Non-Party that challenges the designation of

1 information or items under this order.

2       2.2 Counsel: Outside Counsel of Record and In-House Counsel (as well as their support  
3 staff) to whom it is reasonably necessary to disclose the information for this litigation.

4       2.3 Designating Party: A Party, Non-Party, person, or entity designating documents or  
5 information as Protected Information under this Order.

6       2.4 Discovery Material: All items or information, including from any non-party,  
7 regardless of the medium or manner in which it is generated, stored, or maintained (including,  
8 among other things, testimony, transcripts, and tangible things), that are produced or generated in  
9 disclosures or responses to discovery in this matter.

10       2.5 Expert: A person with specialized knowledge or experience in an area relevant to  
11 the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or  
12 as a consultant in this action, (2) is not a past or current employee of a Party or of a Party's  
13 competitor, and (3) at the time of retention, is not anticipated to become an employee of a Party or  
14 of a Party's competitor.

15       2.6 In-House Counsel: Attorneys (and their support staff, including legal secondees and  
16 economists) who are employees or contractors of a party and whose responsibilities include  
17 overseeing, working on, or supporting this action. In-House Counsel does not include Outside  
18 Counsel of Record or any other outside counsel.

19       2.7 Non-Party: Any natural person, partnership, corporation, association, or other legal  
20 entity not named as a party to this action.

21       2.8 Outside Counsel of Record: Attorneys (and their support staff) who are not  
22 employees of a Party to this action but are retained to represent or advise a Party to this action and  
23 have appeared in this action or are affiliated with a law firm that has appeared on behalf of that  
24 Party in this action.

25       2.9 Party: Any party to this action, including all its officers, directors, employees,  
26

1 consultants, vendors, retained Experts, and Outside Counsel of Record (and their support staff).

2 2.10 Producing Party: A Party or Non-Party that produces Discovery Material in this  
3 action.

4 2.11 Protected Material: Any Discovery Material that is designated as “Confidential” or  
5 “Highly Confidential – Attorneys’ Eyes Only.”

6 2.12 Receiving Party: A Party that receives Discovery Material from a Producing Party.

7 3. PROTECTED MATERIAL

8 3.1 “CONFIDENTIAL” MATERIAL: “Confidential Material” shall include the  
9 following documents and tangible things produced or otherwise exchanged: materials that  
10 (i) contain non- public business information that is treated confidentially by the Producing Party  
11 in the ordinary course of business and whose disclosure may cause the Producing Party to be  
12 commercially disadvantaged or prejudiced, or (ii) contain sensitive personally-identifying  
13 information of individuals. Some examples of “Confidential” materials could be: trade secrets,  
14 technical information; technical practices; technical methods; know-how; product research;  
15 product design; product formulas; product testing; product development; product manufacturing;  
16 minutes of confidential board meetings; minutes of confidential officer meetings; minutes of  
17 confidential employee meetings; non-public pricing; finances and financial reports; the amount of  
18 taxes paid; the amount of sales; the amount of profits; the amount of costs; marketing plans,  
19 business plans, forecasts, and business strategies; agreements with third parties; the substance of  
20 licensing negotiations; customer lists; market projections; market forecasts; strategy plans;  
21 marketing strategies; advertising data; an individual’s social-security number, taxpayer-  
22 identification number, birth date, or address, email address, phone number, or other personally  
23 identifiable information, the name of an individual known to be a minor, or a financial-account  
24 number; and other non-public business information that is treated confidentially by the designating  
25 party in the ordinary course of business, the disclosure of which may cause the designating party  
26

1 to be commercially disadvantaged or prejudiced.

2        3.2     “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Material: “Highly  
3 Confidential – Attorneys’ Eyes Only” material is extremely sensitive “Confidential Material,”  
4 disclosure of which to another Party or Non-Party would create a substantial risk of serious harm  
5 that could not be avoided by less restrictive means.

6        4. SCOPE

7        The protections conferred by this order cover not only Protected Material, but also (1) any  
8 information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or  
9 compilations of Protected Material; and (3) any testimony, conversations, or presentations by  
10 Parties or their Counsel, Non-Parties, and/or Experts that might reveal Protected Material.

11        However, the protections conferred by this order do not cover information that is in the  
12 public domain or becomes part of the public domain through trial or otherwise.

13        5. ACCESS TO AND USE OF PROTECTED MATERIAL

14        5.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or  
15 produced by another Party or by a Non-Party in connection with this case only for prosecuting,  
16 defending, or attempting to settle this litigation. Protected Material may be disclosed only to the  
17 categories of persons and under the conditions described in this order. Protected Material must be  
18 stored and maintained by a Receiving Party at a location and in a secure manner that ensures that  
19 access is limited to the persons authorized under this order.

20        5.2 Disclosure of “CONFIDENTIAL” Material. Unless otherwise ordered by the court  
21 or permitted in writing by the Designating Party, a Receiving Party may disclose any Confidential  
22 Material only to:

23                (a)     the Receiving Party’s Counsel in this action, as well as employees of  
24 Counsel to whom it is reasonably necessary to disclose the information for this litigation;

25                (b)     the officers, directors, and employees (including in house counsel) of the  
26 receiving party to whom disclosure is reasonably necessary for this litigation;

1 (c) Experts and consultants and their staff to whom disclosure is reasonably  
2 necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be  
3 Bound” (Exhibit A);

4 (d) the court, court personnel, and court reporters and their staff;

5 (e) copy, imaging, document management, and electronic discovery services  
6 retained by Counsel to whom disclosure is reasonably necessary for this litigation and who have  
7 signed the “Acknowledgement and Agreement to Be Bound” (Exhibit A);

8 (f) during their depositions, witnesses in the action to whom disclosure is  
9 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound”  
10 (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of  
11 transcribed deposition testimony or exhibits to depositions that reveal Confidential Material must  
12 be separately bound by the court reporter and may not be disclosed to anyone except as permitted  
13 under this order;

14 (g) the author or recipient of a document containing the information or a  
15 custodian or other person who otherwise possessed or knew the information;

16 (h) Professional jury or trial consultants and professional vendors to whom  
17 disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgement  
18 and Agreement to Be Bound” (Exhibit A); and

19 (i) any mediator who is assigned to hear this matter, and his or her staff, subject  
20 to their agreement to maintain confidentiality to the same degree as required by this Protective  
21 Order.

22 5.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”  
23 Material. Unless otherwise ordered by the court or permitted in writing by the Designating Party,  
24 a Receiving Party may disclose any information or item designated HIGHLY CONFIDENTIAL  
25 – ATTORNEYS’ EYES ONLY only to:

26 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as

1 employees of Outside Counsel of Record to whom it is reasonably necessary to disclose the  
2 information for this litigation;

3 (b) In-House Counsel of the Receiving Party to whom disclosure is reasonably  
4 necessary for this litigation;

5 (c) Experts, consultants, trial consulting personnel, professional vendors, and  
6 their staff to whom disclosure is reasonably necessary for this litigation and who have signed the  
7 “Acknowledgement and Agreement to Be Bound” (Exhibit A);

8 (d) the court, court personnel, and court reporters and their staff;

9 (e) copy, imaging, document management, and electronic discovery services  
10 retained by Counsel to whom disclosure is reasonably necessary for this litigation and who have  
11 signed the “Acknowledgement and Agreement to Be Bound” (Exhibit A);

12 (f) during their depositions, witnesses in the action to whom disclosure is  
13 reasonably necessary and who have signed the “Acknowledgement and Agreement to Be Bound”  
14 (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of  
15 transcribed deposition testimony or exhibits to depositions that reveal Highly Confidential –  
16 Attorneys’ Eyes Only Material must be separately bound by the court reporter and may not be  
17 disclosed to anyone except as permitted under this order;

18 (g) the author or recipient of a document containing the information or a  
19 custodian or other person who otherwise possessed or knew the information;

20 (h) Professional jury or trial consultants and professional vendors to whom  
21 disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgement  
22 and Agreement to Be Bound” (Exhibit A); and

23 (i) any mediator who is assigned to this matter, and their staff, subject to their  
24 agreement to maintain confidentiality to the same degree as required by this Protective Order.

25 5.4 Filing Protected Material. Before filing Protected Material or discussing or  
26 referencing such material in court filings, the filing Party shall confer with the Designating Party,

1 in accordance with Local Civil Rule 5(g)(3)(A), to determine whether the Designating Party will  
2 remove the confidential designation, whether the document can be redacted, or whether a motion  
3 to seal or stipulation and proposed order is warranted. During the meet and confer process, the  
4 Designating Party must identify the basis for sealing the specific confidential information at issue,  
5 and the filing Party shall include this basis in its motion to seal, along with any objection to sealing  
6 the information at issue. Local Civil Rule 5(g) sets forth the procedures that must be followed and  
7 the standards that will be applied when a party seeks permission from the court to file material  
8 under seal. A Party who seeks to maintain the confidentiality of its information must satisfy the  
9 requirements of Local Civil Rule 5(g)(3)(B), even if it is not the party filing the motion to seal.  
10 Failure to satisfy this requirement will result in the motion to seal being denied, in accordance with  
11 the strong presumption of public access to the Court's files.

12 5.5 Limitations. Nothing in this Order shall restrict in any way a Producing Party's use  
13 or disclosure of its own Protected Material. Nothing in this Order shall restrict in any way the use  
14 or disclosure of Discovery Material by a Receiving Party: (i) that is or has become publicly known  
15 through no fault of the Receiving Party; (ii) with the consent of the Producing Party; or  
16 (iii) pursuant to order of the Court.

17 6. DESIGNATING PROTECTED MATERIAL

18 6.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party  
19 or Non-Party that designates information or items for protection under this order must take care to  
20 limit any such designation to specific material that qualifies under the appropriate standards. The  
21 Designating Party must designate for protection only those parts of material, documents, items, or  
22 oral or written communications that qualify, so that other portions of the material, documents,  
23 items, or communications for which protection is not warranted are not swept unjustifiably within  
24 the ambit of this protective order.

25 Mass, indiscriminate, or routinized designations are prohibited. Designations that are  
26 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to

unnecessarily encumber or delay the case development process or to impose unnecessary expenses and burdens on other parties) expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection, the Designating Party must promptly notify all other parties that it is withdrawing the mistaken designation.

6.2 Manner and Timing of Designations. Except as provided in section 6.2 below, or as otherwise stipulated or ordered, Discovery Material that qualifies for protection under this order must be clearly so designated before or when the material is disclosed or produced.

(a) Information in documentary form: (*e.g.*, paper or electronic documents and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings), the Designating Party must affix the word "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" to each page that contains Protected Material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (*e.g.*, by making appropriate markings in the margins).

(b) Testimony given in deposition or in other pretrial proceedings: the Parties and any participating Non-Parties must identify on the record, during the deposition, hearing, or other pretrial proceeding, all protected testimony, without prejudice to their right to so designate other testimony after reviewing the transcript. Any Party or Non-Party may, within thirty days after receiving the transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or exhibits thereto, as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." Transcripts containing Protected Material shall have an obvious legend on the title page that the transcript contains Protected Material and the title page shall be followed by a list of all pages (including line numbers as appropriate) that have been designated as Protected Material and, for each page, the level of protection being asserted by the Designating Party. The Designating Party shall inform the court reporter of these requirements. Until the expiration of the 30-day period for designation, any deposition transcript shall be treated as if it

1 had been designated “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY” in its entirety,  
2 unless otherwise agreed. If a Party or Non-Party desires to protect Protected Material at trial, the  
3 issue should be addressed during the pre-trial conference.

4 (c) Other tangible items: the Producing Party must affix in a prominent place  
5 on the exterior of the container or containers in which the information or item is stored the word  
6 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only a  
7 portion or portions of the information or item warrant protection, the Producing Party, to the extent  
8 practicable, shall identify the protected portion(s).

9 6.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
10 designate qualified information or items does not, standing alone, waive the Designating Party’s  
11 right to secure protection under this order for such material. Upon timely correction of a  
12 designation, the Receiving Party must make reasonable efforts to ensure that the material is treated  
13 in accordance with the provisions of this order.

14 7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

15 7.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of  
16 Protected Material at any time. The Challenging Party must identify the challenged material(s) by  
17 Bates number. Unless a prompt challenge to a Designating Party’s confidentiality designation is  
18 necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a  
19 significant disruption or delay of the litigation, a party does not waive its right to challenge a  
20 confidentiality designation by electing not to mount a challenge promptly after the original  
21 designation is disclosed.

22 7.2 Meet and Confer. The parties must make every attempt to resolve any dispute  
23 regarding confidential designations without court involvement. Any motion regarding confidential  
24 designations or for a protective order must include a certification, in the motion or in a declaration  
25 or affidavit, that the movant has engaged in a good faith meet and confer conference with other  
26 affected parties in an effort to resolve the dispute without court action, and that they have identified

the material(s) at issue by Bates number. The certification must list the date, manner, and participants to the conference. A good faith effort to confer requires a face-to-face meeting or a telephone conference.

7.3 Judicial Intervention. If the parties cannot resolve a challenge without court intervention, the Designating Party may file and serve a motion to retain confidentiality under Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of persuasion in any such motion shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other parties) may expose the challenging party to sanctions. All parties shall continue to maintain the material in question as confidential until the court rules on the challenge.

#### 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” that party must:

(a) promptly notify the Designating Party in writing and include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this protective order. Such notification shall include a copy of this order; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.

(d) If the Designating Party timely seeks a protective order from the court from which the subpoena or order issued, the Party served with the subpoena or court order shall not produce any information designated in this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY” absent a court order, unless the Party has

1 obtained the Designating Party's permission. The Designating Party shall bear the burden and  
2 expense of seeking protection in that court of its Protected Material.

3 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

4 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected  
5 Material to any person or in any circumstance not authorized under this order, the Receiving Party  
6 must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b)  
7 use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the  
8 person or persons to whom unauthorized disclosures were made of all the terms of this order, and  
9 (d) request that such person or persons execute the "Acknowledgment and Agreement to Be  
10 Bound" that is attached hereto as Exhibit A.

11 10. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED  
12 MATERIAL

13 When a Producing Party gives notice to receiving parties that certain inadvertently  
14 produced material is subject to a claim of privilege or other protection, the obligations of the  
15 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). Inadvertent  
16 production shall not constitute a waiver of such protection. This provision is not intended to modify  
17 whatever procedure may be established in an e-discovery order or agreement that provides for  
18 production without prior privilege review. A non-waiver order under Fed. R. Evid. 502(d) shall be  
19 entered as set forth herein.

20 11. NON TERMINATION AND RETURN OF DOCUMENTS

21 Within 60 days after the termination of this action, including all appeals, each Receiving  
22 Party must return all Protected Material to the producing party, including all copies, extracts and  
23 summaries thereof. Alternatively, the parties may agree upon appropriate methods of destruction.

24 Notwithstanding this provision, counsel are entitled to retain one archival copy of all  
25 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,  
26 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work

1 product, even if such materials contain confidential material.

2       The confidentiality obligations imposed by this order shall remain in effect until a  
3 designating party agrees otherwise in writing or a court orders otherwise.

1 IT IS SO ORDERED.

2 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any  
3 documents, electronically stored information (ESI) or information, whether inadvertent or  
4 otherwise, in this proceeding shall not, for the purposes of this proceeding or any other federal or  
5 state proceeding, constitute a waiver by the producing party of any privilege applicable to those  
6 documents, including the attorney-client privilege, attorney work-product protection, or any other  
7 privilege or protection recognized by law. This Order shall be interpreted to provide the maximum  
8 protection allowed by Fed. R. Evid. 502(d). The provisions of Fed. R. Evid. 502(b) do not apply.  
9 Nothing contained herein is intended to or shall serve to limit a party's right to conduct a review  
10 of documents, ESI or information (including metadata) for relevance, responsiveness and/or  
11 segregation of privileged and/or protected information before production. Information produced  
12 in discovery that is protected as privileged or work product shall be immediately returned to the  
13 producing party.

14 Dated this 27<sup>th</sup> day of January, 2025.

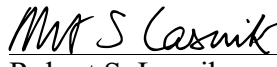
16   
17 Robert S. Lasnik  
18 United States District Judge  
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EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address], declare under penalty of  
perjury that I have read in its entirety and understand the Stipulated Protective Order that was  
issued by the United States District Court for the Western District of Washington on [date] in the  
case of *Horn v. Amazon.com*, Case No. 2:23-CV-01727-RSL. I agree to comply with and to be  
bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that  
failure to so comply could expose me to sanctions and punishment in the nature of contempt. I  
solemnly promise that I will not disclose in any manner any information or item that is subject to  
this Stipulated Protective Order to any person or entity except in strict compliance with the  
provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the  
Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective  
Order, even if such enforcement proceedings occur after termination of this action.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_